IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6906 of 2007()

S.T.NO.251/01 WHICH IS RENUMBERED AS LP.73/2005 of J.M.F.C.-II,TRIVANDRUM

.....

PETITIONER/ACCUSED

ALI HYDER, AGED 48 YEARS, S/O. MUHAMMED,
SALI PILLA, C.C.46/483/1, SAREENA MANZIL,
JAWAHAR STREET, BEEMA PALLI, THIRUVANANTHAPURAM.

BY ADV. SRI.ESM.KABEER

RESPONDENTS: COMPLAINANT/STATE

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1. STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. ABDUL RAHIM, S/O. ABDUL HAMEED MUNSHI,
NEAR NOORUL ISLAM ARABIC COLLEGE, BEEMA PALLI,
THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6906 OF 2007

Dated this the 14th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable under Sec.138 of the Negotiable Instruments Act. Cognizance was taken in 2001. The petitioner was enlarged on bail in 2001. Consequent to his non- appearance, the case has been transferred to the list of Long Pending Cases in 2005. Efforts are afoot to secure the presence of the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate to procure the presence of the petitioner chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail

may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge